

## Appointment

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**From:** Stewart-Downer, Sherry [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7F93F1E6D87249779DEE118D124B9238-STEWART, SHERRY]  
**Sent:** 5/7/2019 10:31:42 AM  
**To:** Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; dan@wastatedairy.com; gbaise@ofwlaw.com; jay@wastatedairy.com; Molina, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c1d68da1a4587866e1850f22a6ae5-Molina, Mic]; dan@wastatedairy.com; gbaise@ofwlaw.com; jay@wastatedairy.com  
**Subject:** EPA & Washington State Dairy Foundation Call  
**Location:** Dial-In [Ex. 6 Personal Privacy (PP)], Participant PIN [Ex. 6 Personal Privacy (PP)]  
**Start:** 5/13/2019 8:30:00 PM  
**End:** 5/13/2019 9:00:00 PM  
**Show Time As:** Busy

### Invitees include:

Ed Zurcher, dairy farmer and President of Washington State Dairy Federation (WSDF)  
Larry Stap, dairy farmer and President of Save Family Farming (SFF)  
Dan Wood, Executive Director, WSDF  
Jay Gordon, Policy Director, WSDF  
Gerald Baron, Executive Director SFF  
Gary Baise, OFW Law

Message

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**Sent:** 5/6/2019 6:42:36 PM  
**To:** Dan Wood [dan@wastatedairy.com]; Gary H. Baise [gbaise@ofwlaw.com]  
**CC:** Stewart-Downer, Sherry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7f93f1e6d87249779dee118d124b9238-Stewart, Sherry]  
**Subject:** RE: [SPF ERROR] RE: [EXTERNAL] Fwd: info materials and update.

Thanks. Sherry can add to my outlook calendar. Nex Monday at 4:30 Eastern?

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**From:** Dan Wood [mailto:dan@wastatedairy.com]  
**Sent:** Monday, May 6, 2019 2:37 PM  
**To:** Bennett, Tate <Bennett.Tate@epa.gov>; Gary H. Baise <gbaise@ofwlaw.com>  
**Cc:** Stewart-Downer, Sherry <Stewart-Downer.Sherry@epa.gov>; Dan Wood <dan@wastatedairy.com>  
**Subject:** RE: [SPF ERROR] RE: [EXTERNAL] Fwd: info materials and update.

What day(s) are you available this week, Tate?

I can set up the conference call again.

We will schedule around your availability.

Thanks,

*Dan Wood*

Executive Director  
Washington State Dairy Federation

[Dan@WaStateDairy.com](mailto:Dan@WaStateDairy.com)

Personal Privacy / Ex. 6 (office)

Personal Privacy / Ex. 6 (cell) *Call Any Time (really!)*

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**From:** Bennett, Tate <Bennett.Tate@epa.gov>  
**Sent:** Monday, May 6, 2019 3:56 AM  
**To:** Gary H. Baise <gbaise@ofwlaw.com>  
**Cc:** Dan Wood <dan@wastatedairy.com>; Stewart-Downer, Sherry <Stewart-Downer.Sherry@epa.gov>  
**Subject:** Re: [SPF ERROR] RE: [EXTERNAL] Fwd: info materials and update.

Can we get something going again? Please use this official email account going forward. Sherry can help set something up.

On May 1, 2019, at 9:42 PM, Gary H. Baise <gbaise@ofwlaw.com> wrote:

I assumed 3:00 EDT.12:00 your time.

Sent from my iPhone

On May 1, 2019, at 9:06 PM, Dan Wood <dan@wastatedairy.com> wrote:

Ms. Bennett,

I see you have suggested 3 PM Friday. Is that Eastern or Pacific?

Do you want me to arrange a conference call dial-in?

Thanks,

*Dan Wood*

Executive Director  
Washington State Dairy Federation  
[Dan@WaStateDairy.com](mailto:Dan@WaStateDairy.com)

Personal Privacy / Ex. 6 (office)  
Personal Privacy / Ex. 6 (cell) *Call Any Time (really!)*

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**From:** Dan Wood <[dan@wastatedairy.com](mailto:dan@wastatedairy.com)>  
**Sent:** Friday, April 26, 2019 11:35 AM  
**To:** Jay Gordon <[jay@wastatedairy.com](mailto:jay@wastatedairy.com)> Personal Privacy / Ex. 6 Frank Falen  
<[frank@buddfalen.com](mailto:frank@buddfalen.com)>; Gary H. Baise <[gbaise@ofwlaw.com](mailto:gbaise@ofwlaw.com)>;  
Ex. 6 Personal Privacy (PP)  
**Cc:** Jay Gordon <[jay@wastatedairy.com](mailto:jay@wastatedairy.com)>; Dan Wood <[dan@wastatedairy.com](mailto:dan@wastatedairy.com)>; rick  
fasching Personal Privacy / Ex. 6  
**Subject:** Re: [EXTERNAL] Fwd: info materials and update.

Ms. Bennett,

We would be glad to have a call with you on Friday, next week.

Please let us know what time works best for you, and we can arrange a conference call dial-in.

Thank you,

Dan Wood  
Executive Director  
WA State Dairy Federation  
Personal Privacy / Ex. 6 (C)  
Personal Privacy / Ex. 6 (O)  
[Dan@WaStateDairy.com](mailto:Dan@WaStateDairy.com)  
Call any time. Really, it's OK.

Begin forwarded message:

**From:** Tate Bennett <Ex. 6 Personal Privacy (PP)>  
**Date:** April 25, 2019 at 5:47:58 PM EDT  
**To:** "Gary H. Baise" <[gbaise@ofwlaw.com](mailto:gbaise@ofwlaw.com)>  
**Cc:** "Michael Molina ([molina.michael@epa.gov](mailto:molina.michael@epa.gov))"  
<[molina.michael@epa.gov](mailto:molina.michael@epa.gov)>, Tate Bennett  
<[bennett.tate@epa.gov](mailto:bennett.tate@epa.gov)>  
**Subject:** Re: [EXTERNAL] Fwd: info materials and update.

Hey Gary! I believe I've worked with the WA farm bureau but not the dairy guys yet. I'd be happy to take a call soon and Michael can join if available. Perhaps next week on Friday?

Sent from my iPhone

On Apr 25, 2019, at 4:58 PM, Gary H. Baise  
<[gbase@ofwlaw.com](mailto:gbase@ofwlaw.com)> wrote:

Ms. Bennett & Mr. Molina,

Attached are two documents presented to the Regional Administrator in Seattle related to Washington State dairy issues. I represent Washington State Dairy Federation and hired former USDA expert Mr. Fasching on soils to look at Region X's work which he concludes was in part "fraudulent". I advised him on what the elements of fraud are and he came to his own conclusion. The Region X study led to the Cow Palace case which was lost by the dairy farmers. This is an extremely serious problem created by Region X staff and must be addressed.

Executives of the Federation are available to discuss this matter with you.

Thank you.

Gary H. Baise  
OFW LAW  
Olsson Frank Weeda Terman Matz PC  
2000 Pennsylvania Avenue, NW  
Suite 3000  
Washington, D.C. 20006

Direct: Personal Privacy / Ex. 6  
Fax: 202-234-3550  
Email: [gbase@ofwlaw.com](mailto:gbase@ofwlaw.com)

<image001.jpg>  
    <image002.jpg>  
    <image003.png>

<SFF EPA Nitrate Critique v8 011419.docx>  
<05\_Lower\_Yakima\_Valley\_Draft\_Report\_December\_16th\_2011-1.pdf>  
<PEER(1).docx>

Message

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**From:** Gerald Baron [gbaron@savefamilyfarming.org]  
**Sent:** 6/11/2019 5:30:57 PM  
**To:** Hladick, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b82d04419c42423a97bd7624a3a09908-Hladick, Ch]  
**CC:** Larry Stap [ldstap@twinbrookcreamery.com]; Jay Gordon [jay@wastatedairy.com]; Dan Wood [dan@wastatedairy.com]; Edmondson, Lucy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4b8581bcd444dee9c784cf53201e90f-Edmondson, Lucy]; Martinez, Travis [Travis.Martinez@mail.house.gov]; Matthew Neighbors [matt.neighbors@mail.house.gov]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Rick Naerebout [Ex. 6 Personal Privacy (PP) Tami Kerr [tami.kerr@oregondairyfarmers.org]  
**Subject:** RE Yakima Nitrate Study and EPA HQ engagement  
**Attachments:** SFF Hladick ltr re HQ action (2).docx; SFF EPA Bennett call fup 052019 (1).docx

Administrator Hladick:

A courtesy letter to inform you of continuing efforts to address the EPA Nitrate Study.

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Gerald Baron  
Executive Director, Save Family Farming  
[gbaron@savefamilyfarming.org](mailto:gbaron@savefamilyfarming.org)  
[www.savefamilyfarming.org](http://www.savefamilyfarming.org)  
[facebook.com/savefamilyfarming](https://facebook.com/savefamilyfarming)

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PO Box 424 | Everson, WA | 98247 | [Personal Privacy / Ex. 6](#)

May 23, 2019

Associate Administrator Tate Bennett  
Environmental Protection Agency  
Office of Public Engagement and Environmental Education

Cc: Representative Dan Newhouse  
Representative Cathy McMorris Rodgers  
Administrator Christopher Hladick  
Dan Wood, Washington State Dairy Federation

Via email: [Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)

Dear Ms. Bennett:

Dairy farmers across the Pacific Northwest greatly appreciate the opportunity to share with you our serious concerns about EPA Region 10's actions toward dairy farmers on our May 13 conference call. There were three issues raised during that call that merit further explanation and discussion. We believe some of these issues were raised by Region 10 staff who, as expected, are doing all they can to prevent the EPA leadership from taking action on the faulty Nitrate Report and enforcement.

First, regarding state legislation or regulation. The question raised suggested that perhaps Washington state has used the EPA Nitrate Report as a basis for legislation or the new CAFO permit. The new permit including the NPDES permit issued in early 2017 did not reflect EPA's study or findings. To the contrary, during the two week Pollution Control Hearings Board hearing in May-June 2018 where the permit was challenged by Mr. Tebbutt, Ecology staff distanced themselves from the study. We can provide the specific reference in the transcript, but in brief the Ecology staff person responded to a question by Mr. Tebbutt about the study by stating that Ecology did not agree with the findings. It is also significant that the Hearings Board did not allow the study to be entered into evidence and that the Board fully and completely rejected all the arguments of Mr. Tebbutt who based most of his positions on the study.

[PAGE]

A potentially more significant issue was raised regarding “2021”, or the eight year assessment of the Administrative Order on Consent. From discussions with farmers involved, it now appears that the approach Region 10 staff is taking to the damaging study and enforcement is to declare a great win for the environment. The narrative appears to be evolving that the EPA found a significant problem, enforced the law and the enforcement is shown to be a great success. It is our understanding that as part of this they plan on claiming that the installation of a bio-gas digester at the DeRuyter dairy is part of this success. The reality is that the multiple millions spent by these farmers, and much more by all dairy farmers affected by the study-based litigation, has and is preventing farmers from investing in this and other environmental improvement technologies.

The effort to claim a great environmental victory is wrong because the accusation of dairy guilt was and is wrong. The data used to document the dairies’ contribution to nitrate contamination in the groundwater was false or, as we believe, falsified. The details of the numerous ways the study and conclusions failed to prove dairy guilt are in Richard Fasching’s detailed analysis as well as most of the other fifteen experts who reviewed the study. The USGS map of nitrate contamination above the EPA limit shows that it affects about 24 per cent of wells in traditional farming areas with aquifer vulnerability such as found in the Yakima Valley. That map also shows that Southeast Washington is one area of significant nitrate contamination despite the fact that very few dairies exist in nearly the entire area. There is no question that legacy nitrate, from previous farming practices dating to the post World War II era, is the primary source of contamination as we validate in this document on our website. This is even borne out in the EPA nitrate study where age dating shows that most of the water pre-dates the arrival of the dairies under the AOC. EPA staff reported that the age dating protocol they used did not include water older than the 1970s but much of the water they tested went back to the limits of their test (page 42 and Appendix C). At the same time, the EPA report admits staff did not determine when the contaminants entered the water (page 80). In short, EPA staff used nitrate in water that their study shows is mostly older than the dairies to convict these farms of pollution.

Is the AOC enforcement an EPA success story? It’s true that the AOC resulted in one dairy farm improving nutrient management, installing synthetic lagoon liners, testing underground manure lines and providing stacks of very expensive consultant reports. This dairy expended nearly \$11 million on this “success.” These coerced payments were made possible only by the other family business operations. Despite this investment, groundwater testing has not shown improvement. That does not surprise given the fact of legacy nitrate documented throughout the area even in locations with no dairy farms. But this fact will be ignored by EPA as they construct their “success story.”

EPA staff uses the water quality tests in varying and contradictory ways depending on their needs at the time. For example, the deterioration of water quality near dairies was used to “prove” to farmers in the February 27, 2018 meeting that the EPA study was too conservative. Yet, in that same meeting, staff told us of improvements made in nutrient management on farms. When asked why that wasn’t showing up in groundwater testing staff explained that it takes a while for improvements to show up in the water testing. That answer was correct as research has demonstrated that it takes 30 to 50 years of improved practices to reduce legacy

nitrate levels. EPA Region 10 staff tries to have it both ways. They claim that current nitrate levels in groundwater prove dairy guilt despite acknowledging the age of the water pre-dates most dairies and they do not know when contaminants entered the water. But, then they claim current testing can't show progress related to their enforcement because of the time lag in nitrate reduction. In trying to claim "success" of their enforcement, will they now re-interpret test results or will they ignore this measurement and focus on other "successes" such as the installation of the unnecessary synthetic lagoon liners or the bio-gas digester?

EPA Region 10 clearly set out to use their "science" to accuse farmers of pollution. Their numerous failings in collecting the data and drawing conclusions from it have been fully documented. Their accusation is false. Falsely accusing someone of a crime then claiming the punishment was a success is not the American idea of justice.

We were pleased to hear you mention the issue of transparency in our discussion. We have been encouraged with this administration's efforts to improve transparency around science. This very damaging science report was not peer reviewed as required by EPA and federal policy. Then, when staff was called out for misrepresenting the peer review to the new administrator, they changed the categorization of the study from "influential" to "other." This not only fails the transparency test, it demonstrates recognition of their initial failure. It may not violate the law to fail to follow EPA policy, but it most certainly violates the law to lie about it and cover it up by attempting to change the record.

Farmers are very disappointed with the refusal of Administrator Hladick to request the USDA's Agricultural Research Service review of the study we requested. Why is the Administrator unwilling to have this critically important study reviewed? Especially since he is now aware that this study is threatening the very future of our dairy community. Why was the Region 10 staff so resistant to have this study reviewed when completed and why do they continue to so vigorously oppose this review if they are convinced in the validity of their science? Continuing to refuse appropriate review is not consistent with the current EPA administration's commitment to transparency. Administrator Hladick's unwillingness to take action on removing the study from further enforcement and litigation pending the completion of a long overdue peer review and to provide us with documentation on who changed the science designation and when that change occurred has contributed to a growing concern among farmers that long time staff in Region 10 are in command and that they are committed to continuing their unjustified harmful actions toward farmers. Farmers have not forgotten that it was this staff who long supported the very harmful and illegal What's Upstream lobbying campaign.

The EPA leadership in this administration has been a great encouragement to farmers even as questions rise about damaging tariffs. But the lack of response by Region 10 is raising serious doubts among the farming community in Washington state and beyond. No doubt many media outlets would enjoy hearing that farmers are losing confidence in this administration in undoing the wrongs of the previous one and that. A refusal by EPA to allow an extremely damaging science report to see the light of day and be carefully reviewed by experts will further undermine farmer trust and raise questions about the stated commitment to transparency.




Again, we greatly appreciate your interest. As we have conveyed to Administrator Hladick, this issue is of supreme importance to our farmers at a time when many are working desperately to maintain a multi-generation family farm. We trust that you understand the depth of concern and will take appropriate action to see that justice is done.

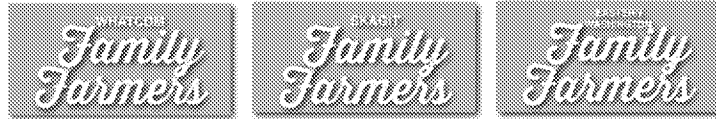
Sincerely,

A handwritten signature in dark ink, appearing to be 'Larry Stap', with a large loop at the end.

Larry Stap  
President, Save Family Farming

A handwritten signature in dark ink, appearing to be 'Gerald Baron', with a long horizontal line extending to the right.

Gerald Baron  
Executive Director, Save Family Farming



PO Box 424 | Everson, WA | 98247 | Personal Privacy / Ex. 6

June 11, 2019

EPA Region 10 Administrator Christopher Hladick  
Via email: [hladick.christopher@epa.gov](mailto:hladick.christopher@epa.gov)

CC: Rep. Dan Newhouse  
Rep. Cathy McMorris Rodgers  
Lucy Edmondson  
Larry Stap  
Jay Gordon  
Dan Wood  
Rick Naerebout  
Tami Kerr  
Associate Administrator Tate Bennett

Dear Administrator Hladick:

As we indicated in our previous communication, the disappointment of farmers in your refusal to allow for the required peer review of the Yakima Nitrate Report has led us to refer this matter to officials at EPA headquarters. This is a courtesy notice to inform you that we are conversing with Associate Administrator Tate Bennett of the Office of Public Engagement and Environmental Education who also serves as agricultural liaison. We had a conference call with Associate Administrator Bennett on May 13 and have continued the conversation since then.

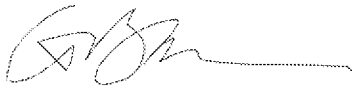
The current administration has made transparency a hallmark of its badly needed reform of the EPA. Farmers had every reason to believe that as Administrator, you would adhere to that policy not only as it relates to the study and peer review, but to the efforts by your staff to falsely characterize its peer review and cover up their failure to comply with EPA policy. Even under the previous administration's policies of transparency, staff failed to meet the requirements for appropriate review of a science study with such serious consequences. Now, that transparency is still being denied. You asked our representatives in the April 2 meeting what farmers would do if the peer review validated the study. The answer of farmers is: We want the truth. We simply ask why you and your staff do not want the same?

Our request to you and officials in Washington DC remains the same:

- 1) Allow this study to be subjected to a peer review by the Agricultural Research Service.
- 2) Suspend the study from further enforcement and litigation pending the completion of that review.
- 3) Provide documentation on who changed the category from “influential science information” to “other” and when that change was made.

While you may receive copies of our communication with EPA officials through agency channels, in the name of transparency, we are attaching a letter we sent to OPEEE Associate Administrator Tate Bennett following our conference call.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Baron', with a long horizontal line extending to the right.

Gerald Baron  
Executive Director  
Save Family Farming

Message

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**From:** Gerald Baron [gbaron@savefamilyfarming.org]  
**Sent:** 5/23/2019 7:05:52 PM  
**To:** Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]  
**CC:** Martinez, Travis [Travis.Martinez@mail.house.gov]; Matthew Neighbors [matt.neighbors@mail.house.gov]; Hladick, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b82d04419c42423a97bd7624a3a09908-Hladick, Ch]; Dan Wood [dan@wastatedairy.com]; Jay Gordon [jay@wastatedairy.com]; Bill Dolsen [bill@dolsenco.com]; Bill Schmidt [Ex. 6 Personal Privacy (PP)]; Dan Degroot [Dan@skyridgefarms.com]; Darrin Morrison [Ex. 6 Personal Privacy (PP)]; Ed Blok [Personal Privacy / Ex. 6]; Fred Likkel [fredl@whatcomfamilyfarmers.org]; Jason VanderKooy [Personal Privacy / Ex. 6]; John Roozen [John@wabulb.com]; Larry Stap [ldstap@twinbrookcreamery.com]; Marvin Tjoelker [marv@larsongross.com]; Rich Appel [Personal Privacy / Ex. 6]; Jason Sheehan [Ex. 6 Personal Privacy (PP)]; Markus Rollinger [Ex. 6 Personal Privacy (PP)]; Austin Allred [Ex. 6 Personal Privacy (PP)]; Dillon Honcoop [dhoncoop@savefamilyfarming.org]  
**Subject:** Follow up to May 13 conference call re dairy farmers and EPA Region 10 actions  
**Attachments:** SFF EPA Bennett call fup 052019 (1).docx

Dear Ms. Bennett:

We very much appreciate your time on the call on May 13. Issues raised on that call are addressed in this letter. We look forward to hearing from you soon.

--

Gerald Baron  
Executive Director, Save Family Farming  
[gbaron@savefamilyfarming.org](mailto:gbaron@savefamilyfarming.org)  
[www.savefamilyfarming.org](http://www.savefamilyfarming.org)  
[facebook.com/savefamilyfarming](https://facebook.com/savefamilyfarming)

Personal Privacy / Ex. 6



May 23, 2019

Associate Administrator Tate Bennett  
Environmental Protection Agency  
Office of Public Engagement and Environmental Education

Cc: Representative Dan Newhouse  
Representative Cathy McMorris Rodgers  
Administrator Christopher Hladick  
Dan Wood, Washington State Dairy Federation

Via email: [Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)

Dear Ms. Bennett:

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First, regarding state legislation or regulation. The question raised suggested that perhaps Washington state has used the EPA Nitrate Report as a basis for legislation or the new CAFO permit. The new permit including the NPDES permit issued in early 2017 did not reflect EPA's study or findings. To the contrary, during the two week Pollution Control Hearings Board hearing in May-June 2018 where the permit was challenged by Mr. Tebbutt, Ecology staff distanced themselves from the study. We can provide the specific reference in the transcript, but in brief the Ecology staff person responded to a question by Mr. Tebbutt about the study by stating that Ecology did not agree with the findings. It is also significant that the Hearings Board did not allow the study to be entered into evidence and that the Board fully and completely rejected all the arguments of Mr. Tebbutt who based most of his positions on the study.

[PAGE]

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nitrate levels. EPA Region 10 staff tries to have it both ways. They claim that current nitrate levels in groundwater prove dairy guilt despite acknowledging the age of the water pre-dates most dairies and they do not know when contaminants entered the water. But, then they claim current testing can't show progress related to their enforcement because of the time lag in nitrate reduction. In trying to claim "success" of their enforcement, will they now re-interpret test results or will they ignore this measurement and focus on other "successes" such as the installation of the unnecessary synthetic lagoon liners or the bio-gas digester?

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We were pleased to hear you mention the issue of transparency in our discussion. We have been encouraged with this administration's efforts to improve transparency around science. This very damaging science report was not peer reviewed as required by EPA and federal policy. Then, when staff was called out for misrepresenting the peer review to the new administrator, they changed the categorization of the study from "influential" to "other." This not only fails the transparency test, it demonstrates recognition of their initial failure. It may not violate the law to fail to follow EPA policy, but it most certainly violates the law to lie about it and cover it up by attempting to change the record.

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Again, we greatly appreciate your interest. As we have conveyed to Administrator Hladick, this issue is of supreme importance to our farmers at a time when many are working desperately to maintain a multi-generation family farm. We trust that you understand the depth of concern and will take appropriate action to see that justice is done.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Larry Stap', with a large loop at the end.

Larry Stap  
President, Save Family Farming

A handwritten signature in dark ink, appearing to be 'Gerald Baron', with a long horizontal line extending to the right.

Gerald Baron  
Executive Director, Save Family Farming



Message

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**From:** Gerald Baron [gbaron@savefamilyfarming.org]  
**Sent:** 7/2/2019 7:15:56 PM  
**To:** Hladick, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b82d04419c42423a97bd7624a3a09908-Hladick, Ch]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]  
**CC:** Martinez, Travis [Travis.Martinez@mail.house.gov]; Dan Wood [dan@wastatedairy.com]; Jay Gordon [jay@wastatedairy.com]; Larry Stap [ldstap@twinbrookcreamery.com]; Edmondson, Lucy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4b8581bcd444dee9c784cf53201e90f-Edmondson, Lucy]; Rick Naerebout [Ex. 6 Personal Privacy (PP) Tami Kerr [tami.kerr@oregondairyfarmers.org]; Matthew Neighbors [matt.neighbors@mail.house.gov]  
**Subject:** Response to your letter of June 19  
**Attachments:** SFF EPA Hladick-Bennett response 070219.docx; EPA Peer Review influential 2.HEIC; EPA Peer Review influential 1.HEIC

Please accept this letter in your response to our requests.

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Gerald Baron  
Executive Director, Save Family Farming  
[gbaron@savefamilyfarming.org](mailto:gbaron@savefamilyfarming.org)  
[www.savefamilyfarming.org](http://www.savefamilyfarming.org)  
[facebook.com/savefamilyfarming](https://facebook.com/savefamilyfarming)

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July 2, 2019

Via Email

Christopher Hladick, Regional Administrator  
Environmental Protection Agency Region 10

Tate Bennett, Associate Administrator  
Office of Public Engagement and Environmental Education  
Environmental Protection Agency

CC: Rep. Dan Newhouse  
Rep. Cathy McMorris Rodgers  
Dan Wood, Washington State Dairy Federation  
Rick Nearebout, Idaho Dairyman's Association  
Tami Kerr, Oregon Dairy Farm Association

Dear Administrator Hladick and Associate Administrator Bennett:

Thank you for your letter of June 19 responding to our written concerns about the EPA nitrate study. The offer of conducting a new study is a step in the right direction but raises some concerns discussed below.

First, however, we must ask about the categorization of the study as "Other." In your letter you state that the project was categorized as "Other" when it was first entered into the database on March 22, 2012 and never changed from that time. On April 2 Jay Gordon and Larry Stap presented you and Mr. Kowalski with the EPA document titled PEER REVIEW PLAN (attached). This includes the OMB Category for the study which is marked "Influential" and dated 09/27/2012. We also presented on April 2 the March 2013 "Response" document prepared in response to the overwhelming scientific critique of the report which also identified the study as "influential". On page 35 of that document it states in response to numerous comments about the inadequate peer review for a science study identified as "influential":

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*EPA's response: Agency guidance provides several options for the peer review of documents classified as "Influential" under the OMB work product criteria. Consistent with Agency Peer Review Guidance, EPA utilized an external peer review approach, which included scientists from USGS, and the U.S. Department of Agriculture.*

If you have documentation of the categorization you describe we ask that you provide it to us. Since our repeated requests for documentation of that categorization have been ignored and given the clear record of the "influential" categorization, we continue to believe that the "other" categorization is a fabrication intended to cover up the lack of adequate review.

In addition to your assertion of the "Other" categorization contradicting two EPA documents, it seems problematic that this study would ever be considered for that category given the OMB definition of "influential science information:"

*scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions. In the term 'influential scientific information,' the term 'influential' should be interpreted consistently with OMB's government-wide information quality guidelines and the information quality guidelines of the agency.*

*([https://en.wikipedia.org/wiki/U.S. Government peer review policies](https://en.wikipedia.org/wiki/U.S._Government_peer_review_policies))*

Even if the EPA categorized the study as "Other" there can be no justification of that categorization based on the OMB definition. When one party under the AOC must spend upwards of \$10 million to comply based on this study, when others made a decision to cease dairy operations as a result of the study and resulting enforcement and when 400 other dairies are forced to absorb additional costs because of the lawsuits and court decisions based on the study, would any reasonable person or judge determine that this study has no impact on private sector decisions?

The document showing the "influential" category states there would be 4 to 10 peer reviewers and these would be "independent experts." Yet, two of the three who submitted reviews were from the EPA and the one from the USGS noted similar criticism of the report submitted by numerous science experts from other agencies, tribes, industry and academia. The fourth reviewer, Dr. David Tarkalson from the Agricultural Research Service, asked his name be removed because he did not have access to substantive parts of the data and conclusions. Apparently the other reviewers also received a copy of the study with some of the most significant data and conclusions missing. Does the EPA consider it a proper review when reviewers are provided significantly redacted data and conclusions?

You state in your letter that "seven years later the EPA has not received any scientific studies or data that would serve as a basis for reconsidering the study's conclusions.": Mr. Hladick, during our November 1, 2018 meeting with you we presented you with a three inch binder containing over fifteen very detailed documents from science experts who, without exception, presented very strong critiques of the study. Some of those critiques are positively damning and validate our concern that the study and conclusions go beyond incompetence to falsification. At your

[PAGE]

request, we met with Mr. Kowalski and other staff on February 27, 2019 and presented a very detailed critique by a retired former NRCS senior agronomist, Mr. Richard Fasching. His analysis presents a solid scientific indictment of this study and he concludes, as a number of others experts have, that the study qualifies as fraud. You note this is a serious allegation. Indeed it is, as serious as the consequences for our dairy farms. This allegation, when proven, may indeed impact the future of EPA staff involved in this, as this study has very significant impact on the future of a large number of multi-generation family farms. We do not withdraw that allegation in any degree. The actions of your staff in fraudulently conducting the study have now been amplified by the fraudulent effort to cover the failure of the peer review.

Your rejection of a “second” peer review is based on your conclusion that it would not be useful because you state “the conclusions of which have been confirmed by subsequent data generated by the dairies themselves.” Every science expert (except for the two internal EPA reviewers) agreed that the data was faulty and that the conclusions EPA drew were not supported by the data. We have never disputed that the data shows levels of nitrate in groundwater above EPA limits. What is in dispute is the source of the nitrate. The report says this nitrate comes from current dairy operations. Current water testing data such as that generated by the dairies under the AOC continue to confirm high levels of nitrate. But, this does not identify the source. We are not requesting a first real peer review in order to verify high levels of nitrate — that fact has never been in dispute. We want the truth about the source of that nitrate and the EPA study demonstrably fails in identifying the source.

Your letter also states that the current data shows that actions by the dairies have begun to reduce nitrate concentrations in groundwater. It appears to us that your staff has consistently used the data for contradictory purposes. The purpose of the February 27 meeting was for Mr. Kowalski and the staff to show us that the current data show high and even higher levels of nitrate than previous tests thereby justifying the enforcement and showing that the original study was “too conservative.” We acknowledge that recent testing continues to show very high levels of nitrate from a few wells. But, where did this come from? When Mr. Fuentes said field applications were showing much improvement he was asked if that was showing up in the data. He reported that it takes a long time for improvements to show in reduced nitrate levels. He is correct as a recent science study from Canada shows it takes 30 to 50 years of improved farm practices to begin to reduce legacy nitrate. But your letter claims that reduced levels in current testing show the enforcement is working. This contradictory use of current data only adds to the mistrust.

We must ask again: why are you and your staff so afraid of a real peer review by recognized experts? Farmers have been asking for it, recognizing that it may indeed show significant contributions from current dairy operations. If so, changes need to be made. In any case, we want the truth. Truth in science has always required transparency. That’s why many were encouraged by the commitment of the new administration to that transparency. Your objection to a reasonable request to address the failure of the previous administration’s resistance to that transparency is troubling indeed. As more farmers and farm groups around the nation come to understand the serious failings of this EPA science study, the attempt to cover up that failing

and the rejection of our request for improved transparency in critically important science, trust in this administration's willingness to right the wrongs of the past will be lost.

Finally, regarding the suggestion of a new study. We must ask: if the first study was flawed in design, execution and conclusions how could we be assured a new study conducted by the same team would be better? Would you be willing to allow outside experts such as from the ARS be involved in this study every step of the way? Would a legitimate peer review be allowed this time? Why would you suggest a new study while at the same time vigorously defending the old study? Doesn't this offer indicate agreement that there are problems with the existing study? If so, what about the continuing aggressive enforcement actions of EPA staff against the three dairies under the AOC? And if the situation warrants a new study, why allow the continuing use of a false study by the anti-dairy litigator to extract huge fees from our dairy farms and put some out of business? A new study conducted independently by the EPA makes little sense to farmers. How would an innocent man convicted of crimes because a prosecutor fabricated evidence be reassured when the same prosecutor offered to retry the case?

We note that Congressman Newhouse has requested the EPA Director retract this study. We reiterate our reasonable requests to you and Ms. Bennett:

- 1) Request the Agricultural Research Service to conduct a proper peer review of the existing study.
- 2) Pending that review, remove the study from further enforcement and litigation.
- 3) Provide the documentation that proves without question the "Other" categorization.

It was explained to you by our president Larry Stap the personal impact of this study on he, his family and almost every dairy family across the state. We appeal to you to do the right thing. But should you continue to take the position you have, be assured that we will never stop working to right the injustice of the agency you represent against our farmers.

Sincerely,



Larry Stap  
President, Save Family Farming



Gerald Baron  
Executive Director, Save Family Farming

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Message

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**From:** Gerald Baron [gbaron@savefamilyfarming.org]  
**Sent:** 4/25/2019 6:09:04 PM  
**To:** Hladick, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b82d04419c42423a97bd7624a3a09908-Hladick, Ch]  
**CC:** Larry Stap [ldstap@twinbrookcreamery.com]; Fred Likkel [fredl@whatcomfamilyfarmers.org]; Rich Appel [Personal Privacy / Ex. 6] Bill Dolsen [bill@dolsenco.com]; Jason VanderKooy [Ex. 6 Personal Privacy (PP)] Dillon Honcoop [dhoncoop@savefamilyfarming.org]; Dan Wood [dan@wastatedairy.com]; Jason Sheehan [Ex. 6 Personal Privacy (PP)] Jay Gordon [jay@wastatedairy.com]; Austin Allred [Ex. 6 Personal Privacy (PP)] Markus Rollinger [Ex. 6 Personal Privacy (PP)] Martinez, Travis [Travis.Martinez@mail.house.gov]  
**Subject:** Dairy farmers next steps on EPA nitrate study  
**Attachments:** SFF Hladick Ltr-2 041919 (3).docx

Administrator Hladick, the attached letter, reviewed and approved by our board, expresses our deep disappointment in your decision not to support our reasonable requests. We now move on to elevate our concerns.

--

Gerald Baron  
Executive Director, Save Family Farming  
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[facebook.com/savefamilyfarming](https://facebook.com/savefamilyfarming)

[Personal Privacy / Ex. 6]



Administrator Christopher Hladick  
U.S. EPA, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101

April 25, 2019

Dear Administrator Hladick:

Farmers throughout the Pacific Northwest were very encouraged by your interest in them and their future. You visited large dairies in Eastern Washington and Larry Stap's dairy in Lynden. You granted us a hearing on November 1 where we explained why we believe the EPA nitrate study was falsified and why it completely failed EPA policies for peer review. Subsequently, we have had additional meetings with you on this critically important issue and provided you more details on this topic, including the evidence that your staff further violated EPA policy by attempting to cover up their failure to conduct a proper peer review.

We want to review the key facts of which we believe you are now fully aware:

- This report is false not merely through incompetence but through intention. The 17 or more experts demonstrated its falseness, and the detailed review by former NRCS senior agronomist Rick Fasching made clear the false nature went well beyond incompetence.
- Senior Region 10 staff was not honest with you about the peer review, about reasons why the USDA reviewer asked his name be removed, about the categorization and about their awareness of the categorization. Given that no peer reviewer received the complete study and report and that some of the most important conclusions and study sections were missing, it cannot be said that any peer review was completed.
- EPA staff misrepresented to us that the study was categorized "other" and when we showed that it was categorized as "influential" both with the initial peer review documents and in the 2013 Response to the numerous criticisms, Mr. Kowalski stated he had never seen those documents. Changing categorization clearly violates EPA policy and in this instance is an obvious effort to cover up for the lack of peer review and the



false statement made by Mr. Winiecki on November 1 that the peer review was thorough and complete.

- Given the severe criticism of the report and the failure to follow EPA policy on peer review combined with the obvious attempt to cover this up, we remain convinced that if the study had been peer reviewed, the punishing enforcement action endured by the farmers and the very high cost of continued litigation based on the report would have been prevented.

We made three reasonable requests of you delivered by letter on April 2:

- 1) That you invite the Agricultural Research Service of the USDA to review the study, report and peer review.
- 2) That you remove the report from serving as the basis of further enforcement and litigation pending the ARS review.
- 3) That you provide us with the documentation of who categorized the report as “Other” and when that action was taken.

Our encouragement with your interest and willingness to listen has been dampened by your lack of response to these requests.

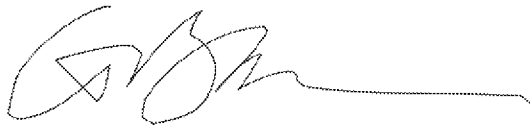
Given the obvious animosity of the previous Administrator and longtime staff to farmers through the conduct of this study, the punitive enforcement resulting from this study, the refusal to keep a promise to support farmers against citizen lawsuits, and the endorsement of illegal use of taxpayer money in support of the What’s Upstream campaign, we hoped a change in administration would provide a basis for correcting some of these wrongs. We still hope for that but now believe it will take the action of senior EPA officials in DC with the encouragement of our elected representatives to see justice for farmers done. We further believe an investigation into the conduct of the staff by federal officials is warranted. This is what we will now request.

It is our understanding that you have reflected Mr. Kowalski’s concern that requesting the peer review may result in more difficulties for farmers. This is, in our view, absurd. Assume the ARS review validates the study, would this cost farmers many millions more in damages? That is not possible because farmers under EPA enforcement today cannot survive. We want good information to guide environmental improvements and therefore we fully support a thorough review because the current study fails in that. The strong resistance to the review by your staff simply shows that they have no confidence in the integrity of the study. This is why they prevented the required review from happening in the first place.

Please do not underestimate our resolve in this matter. As we pointed out to you, this false study and attempt to cover up the failure to have it peer reviewed represents the primary threat to our dairy farmers across the region. We will do what we need to do to get the attention of those who can do the right thing through aggressive media and public outreach if needed.

There is no question in our mind that the deeply embedded senior officials on your staff will not move from their commitment to this study and the injustice it represents. You have an opportunity to do the right thing even against their continued dishonesty and deviousness. We urge you to take that opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Baron', followed by a long horizontal line extending to the right.

Gerald Baron  
Executive Director

Message

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**From:** Gerald Baron [gbaron@savefamilyfarming.org]  
**Sent:** 6/11/2019 5:38:19 PM  
**To:** Hladick, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b82d04419c42423a97bd7624a3a09908-Hladick, Ch]  
**CC:** Larry Stap [ldstap@twinbrookcreamery.com]; Jay Gordon [jay@wastatedairy.com]; Dan Wood [dan@wastatedairy.com]; Edmondson, Lucy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4b8581bcd444dee9c784cf53201e90f-Edmondson, Lucy]; Martinez, Travis [Travis.Martinez@mail.house.gov]; Matthew Neighbors [matt.neighbors@mail.house.gov]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Rick Naerebout [Ex. 6 Personal Privacy (PP) ]; Tami Kerr [tami.kerr@oregondairyfarmers.org]  
**Subject:** RE Yakima Nitrate Study and EPA HQ engagement  
**Attachments:** SFF Hladick ltr re HQ action (2).docx; SFF EPA Bennett call fup 052019 (1).docx

Administrator Hladick:

A courtesy letter to inform you of continuing efforts to address the EPA Nitrate Study.

--

Gerald Baron  
Executive Director, Save Family Farming  
[gbaron@savefamilyfarming.org](mailto:gbaron@savefamilyfarming.org)  
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May 23, 2019

Associate Administrator Tate Bennett  
Environmental Protection Agency  
Office of Public Engagement and Environmental Education

Cc: Representative Dan Newhouse  
Representative Cathy McMorris Rodgers  
Administrator Christopher Hladick  
Dan Wood, Washington State Dairy Federation

Via email: [Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)

Dear Ms. Bennett:

Dairy farmers across the Pacific Northwest greatly appreciate the opportunity to share with you our serious concerns about EPA Region 10's actions toward dairy farmers on our May 13 conference call. There were three issues raised during that call that merit further explanation and discussion. We believe some of these issues were raised by Region 10 staff who, as expected, are doing all they can to prevent the EPA leadership from taking action on the faulty Nitrate Report and enforcement.

First, regarding state legislation or regulation. The question raised suggested that perhaps Washington state has used the EPA Nitrate Report as a basis for legislation or the new CAFO permit. The new permit including the NPDES permit issued in early 2017 did not reflect EPA's study or findings. To the contrary, during the two week Pollution Control Hearings Board hearing in May-June 2018 where the permit was challenged by Mr. Tebbutt, Ecology staff distanced themselves from the study. We can provide the specific reference in the transcript, but in brief the Ecology staff person responded to a question by Mr. Tebbutt about the study by stating that Ecology did not agree with the findings. It is also significant that the Hearings Board did not allow the study to be entered into evidence and that the Board fully and completely rejected all the arguments of Mr. Tebbutt who based most of his positions on the study.

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A potentially more significant issue was raised regarding “2021”, or the eight year assessment of the Administrative Order on Consent. From discussions with farmers involved, it now appears that the approach Region 10 staff is taking to the damaging study and enforcement is to declare a great win for the environment. The narrative appears to be evolving that the EPA found a significant problem, enforced the law and the enforcement is shown to be a great success. It is our understanding that as part of this they plan on claiming that the installation of a bio-gas digester at the DeRuyter dairy is part of this success. The reality is that the multiple millions spent by these farmers, and much more by all dairy farmers affected by the study-based litigation, has and is preventing farmers from investing in this and other environmental improvement technologies.

The effort to claim a great environmental victory is wrong because the accusation of dairy guilt was and is wrong. The data used to document the dairies’ contribution to nitrate contamination in the groundwater was false or, as we believe, falsified. The details of the numerous ways the study and conclusions failed to prove dairy guilt are in Richard Fasching’s detailed analysis as well as most of the other fifteen experts who reviewed the study. The USGS map of nitrate contamination above the EPA limit shows that it affects about 24 per cent of wells in traditional farming areas with aquifer vulnerability such as found in the Yakima Valley. That map also shows that Southeast Washington is one area of significant nitrate contamination despite the fact that very few dairies exist in nearly the entire area. There is no question that legacy nitrate, from previous farming practices dating to the post World War II era, is the primary source of contamination as we validate in this document on our website. This is even borne out in the EPA nitrate study where age dating shows that most of the water pre-dates the arrival of the dairies under the AOC. EPA staff reported that the age dating protocol they used did not include water older than the 1970s but much of the water they tested went back to the limits of their test (page 42 and Appendix C). At the same time, the EPA report admits staff did not determine when the contaminants entered the water (page 80). In short, EPA staff used nitrate in water that their study shows is mostly older than the dairies to convict these farms of pollution.

Is the AOC enforcement an EPA success story? It’s true that the AOC resulted in one dairy farm improving nutrient management, installing synthetic lagoon liners, testing underground manure lines and providing stacks of very expensive consultant reports. This dairy expended nearly \$11 million on this “success.” These coerced payments were made possible only by the other family business operations. Despite this investment, groundwater testing has not shown improvement. That does not surprise given the fact of legacy nitrate documented throughout the area even in locations with no dairy farms. But this fact will be ignored by EPA as they construct their “success story.”

EPA staff uses the water quality tests in varying and contradictory ways depending on their needs at the time. For example, the deterioration of water quality near dairies was used to “prove” to farmers in the February 27, 2018 meeting that the EPA study was too conservative. Yet, in that same meeting, staff told us of improvements made in nutrient management on farms. When asked why that wasn’t showing up in groundwater testing staff explained that it takes a while for improvements to show up in the water testing. That answer was correct as research has demonstrated that it takes 30 to 50 years of improved practices to reduce legacy

nitrate levels. EPA Region 10 staff tries to have it both ways. They claim that current nitrate levels in groundwater prove dairy guilt despite acknowledging the age of the water pre-dates most dairies and they do not know when contaminants entered the water. But, then they claim current testing can't show progress related to their enforcement because of the time lag in nitrate reduction. In trying to claim "success" of their enforcement, will they now re-interpret test results or will they ignore this measurement and focus on other "successes" such as the installation of the unnecessary synthetic lagoon liners or the bio-gas digester?

EPA Region 10 clearly set out to use their "science" to accuse farmers of pollution. Their numerous failings in collecting the data and drawing conclusions from it have been fully documented. Their accusation is false. Falsely accusing someone of a crime then claiming the punishment was a success is not the American idea of justice.

We were pleased to hear you mention the issue of transparency in our discussion. We have been encouraged with this administration's efforts to improve transparency around science. This very damaging science report was not peer reviewed as required by EPA and federal policy. Then, when staff was called out for misrepresenting the peer review to the new administrator, they changed the categorization of the study from "influential" to "other." This not only fails the transparency test, it demonstrates recognition of their initial failure. It may not violate the law to fail to follow EPA policy, but it most certainly violates the law to lie about it and cover it up by attempting to change the record.

Farmers are very disappointed with the refusal of Administrator Hladick to request the USDA's Agricultural Research Service review of the study we requested. Why is the Administrator unwilling to have this critically important study reviewed? Especially since he is now aware that this study is threatening the very future of our dairy community. Why was the Region 10 staff so resistant to have this study reviewed when completed and why do they continue to so vigorously oppose this review if they are convinced in the validity of their science? Continuing to refuse appropriate review is not consistent with the current EPA administration's commitment to transparency. Administrator Hladick's unwillingness to take action on removing the study from further enforcement and litigation pending the completion of a long overdue peer review and to provide us with documentation on who changed the science designation and when that change occurred has contributed to a growing concern among farmers that long time staff in Region 10 are in command and that they are committed to continuing their unjustified harmful actions toward farmers. Farmers have not forgotten that it was this staff who long supported the very harmful and illegal What's Upstream lobbying campaign.


The EPA leadership in this administration has been a great encouragement to farmers even as questions rise about damaging tariffs. But the lack of response by Region 10 is raising serious doubts among the farming community in Washington state and beyond. No doubt many media outlets would enjoy hearing that farmers are losing confidence in this administration in undoing the wrongs of the previous one and that. A refusal by EPA to allow an extremely damaging science report to see the light of day and be carefully reviewed by experts will further undermine farmer trust and raise questions about the stated commitment to transparency.

Again, we greatly appreciate your interest. As we have conveyed to Administrator Hladick, this issue is of supreme importance to our farmers at a time when many are working desperately to maintain a multi-generation family farm. We trust that you understand the depth of concern and will take appropriate action to see that justice is done.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Larry Stap', with a large loop at the end.

Larry Stap  
President, Save Family Farming

A handwritten signature in dark ink, appearing to be 'Gerald Baron', with a long horizontal line extending to the right.

Gerald Baron  
Executive Director, Save Family Farming



June 11, 2019

EPA Region 10 Administrator Christopher Hladick  
Via email: [hladick.christopher@epa.gov](mailto:hladick.christopher@epa.gov)

CC: Rep. Dan Newhouse  
Rep. Cathy McMorris Rodgers  
Lucy Edmondson  
Larry Stap  
Jay Gordon  
Dan Wood  
Rick Naerebout  
Tami Kerr  
Associate Administrator Tate Bennett

Dear Administrator Hladick:

As we indicated in our previous communication, the disappointment of farmers in your refusal to allow for the required peer review of the Yakima Nitrate Report has led us to refer this matter to officials at EPA headquarters. This is a courtesy notice to inform you that we are conversing with Associate Administrator Tate Bennett of the Office of Public Engagement and Environmental Education who also serves as agricultural liaison. We had a conference call with Associate Administrator Bennett on May 13 and have continued the conversation since then.

The current administration has made transparency a hallmark of its badly needed reform of the EPA. Farmers had every reason to believe that as Administrator, you would adhere to that policy not only as it relates to the study and peer review, but to the efforts by your staff to falsely characterize its peer review and cover up their failure to comply with EPA policy. Even under the previous administration's policies of transparency, staff failed to meet the requirements for appropriate review of a science study with such serious consequences. Now, that transparency is still being denied. You asked our representatives in the April 2 meeting what farmers would do if the peer review validated the study. The answer of farmers is: We want the truth. We simply ask why you and your staff do not want the same?

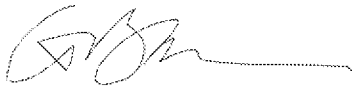


Our request to you and officials in Washington DC remains the same:

- 1) Allow this study to be subjected to a peer review by the Agricultural Research Service.
- 2) Suspend the study from further enforcement and litigation pending the completion of that review.
- 3) Provide documentation on who changed the category from “influential science information” to “other” and when that change was made.

While you may receive copies of our communication with EPA officials through agency channels, in the name of transparency, we are attaching a letter we sent to OPEEE Associate Administrator Tate Bennett following our conference call.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Baron', followed by a horizontal line.

Gerald Baron  
Executive Director  
Save Family Farming

Message

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**Sent:** 10/7/2019 6:36:07 PM  
**To:** Meadows, Carrie [Carrie.Meadows@mail.house.gov]  
**CC:** O'Brien, Sean [SeanV.O'Brien@mail.house.gov]; Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Voyles, Travis [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4c2b6c0d5ff046e7809f8cab2913bc48-Voyles, Tra]  
**Subject:** RE: Email  
**Attachments:** Signed Letter - Yakima Dairies - Save Family Farming dtd 9.19.19.pdf

Carrie and Sean,

I wanted to make sure you saw this letter that went out from EPA, responsive to your bosses call to "suspend the study from enforcement action and litigation" (<https://newhouse.house.gov/media-center/press-releases/newhouse-requests-peer-review-yakima-valley-nitrate-report-epa-region-10>).

Is there a good time this week to dicuss?

Sincerely,

---

**From:** Meadows, Carrie <Carrie.Meadows@mail.house.gov>  
**Sent:** Monday, September 30, 2019 11:23 AM  
**To:** Kolb, John (JohnMark) <kolb.john@epa.gov>  
**Cc:** O'Brien, Sean <SeanV.O'Brien@mail.house.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>  
**Subject:** Re: Email

Thank you!

Sent from my iPhone

On Sep 30, 2019, at 11:08 AM, Kolb, John (JohnMark) <kolb.john@epa.gov> wrote:

Carrie and Sean,

Happy Monday. Have not forgotten about you. Will touch base with you on this shortly.

Sincerely,

**JohnMark Kolb**  
*Congressional Affairs*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: Personal Privacy / Ex. 6

---

**From:** Meadows, Carrie <Carrie.Meadows@mail.house.gov>  
**Sent:** Monday, September 9, 2019 3:40 PM  
**To:** Kolb, John (JohnMark) <kolb.john@epa.gov>  
**Subject:** RE: Email

John Mark- Hope your August was good. Just wanted to follow-up on Congressman Newhouse's request to meet with the Administrator. I also wanted to flag the below news story and release on this issue. My boss is very motivated to make this happen.

Thanks!  
Carrie

### Feedstuffs

## **Nitrate study putting dairy farmers in litigation crosshairs**

By Jacqui Fatka – August 30, 2019

Dairy farmers are appealing to Environmental Protection Agency Administrator Andrew Wheeler to take long-delayed action on conducting a real peer review of the 2012-13 EPA "Yakima Nitrate Report." After months of effort with new EPA Region 10 administrator Christopher Hladick, farmers have turned to the national leader of EPA to put the agency's commitment to transparency in science into action.

The American Dairy Coalition (ADC) sent a letter to Wheeler requesting that he submit a 2013 EPA nitrate report to attain the science review it never received, claiming that it was "flawed and damaging." ADC is concerned for the farmers that have already been severely affected by this so-called scientific research study report and believes EPA must stop a dangerous precedence from being set that could affect other farmers throughout the U.S.

Wheeler was also urged to remove the study from further enforcement action and litigation pending the review.

This follows a similar request submitted by Rep. Dan Newhouse (R., Wash.) on June 26. The Washington State Dairy Federation, Idaho Dairymen's Assn. and Oregon Dairy Farmers Assn. met with Region 10 EPA staff in February, joining with Save Family Farming in its call for EPA to allow the missing peer review and to retract the study pending that review.

"It is vital that the Administration demonstrate their commitment to maintaining the integrity and transparency of science. The current status of this report sets a very unfortunate precedence for the value of science-based actions and represents a profound opportunity to preserve fundamental principles and standards," ADC chief executive officer Laurie Fischer said. "Support for this Administration has been strong from the farm community because of positive changes in the EPA. However, the lack of action in carrying out this scientific peer review may cause that support to wane."

The letter submitted to Wheeler states, "This report, proven false by 15 national agricultural science experts, was developed without the peer review required on 'influential science information,' as the study was categorized. When approached about the error, staff attempted to conceal the failing by falsely claiming the report was not categorized as 'influential' but 'other,' allowing for full discretion in peer reviews."

The EPA "Yakima Nitrate Report" began in 2010 and was published in 2012 and 2013. Despite some of nation's top scientists and agronomists finding the study to be deeply flawed and other government agencies cautioning its use, EPA Region 10 staff still used the study, ADC noted. This led to highly disciplinary enforcement and threats of federal litigation, which has devastated four large dairy farms. Specifically, these four dairies were pressured into signing a very punitive administrative order on consent, resulting in the loss of one dairy and requiring the remaining to spend upwards of \$15 million to comply. Further, the report has been used by an Oregon environmental attorney to force extremely costly settlements with a number of Washington dairy farms, resulting in the loss of farms and creating extreme distress within the entire Washington dairy community.

Larry Stap, a small dairy farmer in northwest Washington and president of Save Family Farming, noted, "This false or falsified study has cost me and a few-hundred other dairy farmers like me endless sleepless nights. The constant fear of EPA using false accusations to take action against me

like they did the others is one thing, but the lawyer using this study to sue farmers has already cost me tens of thousands of dollars I can't afford."

Stap pointed out that a number of farms in his area and around the state are being sold or are going out of business in part because of the concerns related to this study and the actions of the litigation industry.

Deepening the concern, the same Region 10 leadership supported the use of \$550,000 of taxpayer money on public relations and lobbying campaigns against farmers. With this finding in 2016, more than one-third of the members of Congress were compelled to write the EPA director complaining of this action, which prompted an Office of Inspector General investigation that found that the campaign did involve state lobbying.

Also, a former senior agronomist with the U.S. Department of Agriculture provided a detailed analyst of the study and found it to be fraudulent. The documentation may be viewed at

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This has been further supported by the conclusions of 15 prominent agricultural scientists who also deemed the study fraudulent.

## **EPA STANDS BEHIND CONCLUSION THAT INDUSTRIAL DAIRIES CONTAMINATE LOWER YAKIMA VALLEY DRINKING WATER**

September 3, 2019

Yakima, WA.—Despite continued efforts to undermine sound science and community health, Congressman Dan Newhouse (R-WA) again failed to cover up the truth about industrial dairies in the Lower Yakima Valley and the facilities' impacts on groundwater.

In 2017, Congressman Newhouse unsuccessfully pushed legislation aimed at gutting the federal law that protects groundwater from contamination and provides citizens with enforcement power to protect their own communities. In June 2019, at the behest of Washington dairy industry lobbyists, he asked the U.S. Environmental Protection Agency (EPA) to conduct additional peer review of its 2013 study. That study found that dairies in the Lower Yakima Valley (LYV) contribute significantly to the dangerous levels of nitrates in groundwater and drinking water wells. EPA refused this invitation to revise history, instead stating that the data collected since 2013 confirms the conclusions of the study: the high concentration of dairies, which store waste in leaking lagoons and over-apply manure to crop fields, are the likely source of dangerously high nitrate levels in drinking water wells.

"Congressman Newhouse again showed that he cares more about industry lobbyists than fairly representing his own constituents and protecting their health," said Jean Mendoza, executive director of Friends of Toppenish Creek. "Because clean drinking water is so very important to all who live in the Lower Yakima Valley and because Yakima County dairies are the largest polluters of groundwater in the Valley, we sent two letters of concern (#1, #2) to EPA Administrator Andrew Wheeler. The EPA responded with complete support for the Yakima study."

In its response to Friends, EPA noted that the 2013 study led to a Consent Order with ongoing research on a cluster of Yakima Valley dairies, stating "The EPA has received a lot of data over the past seven years from the Dairies, and careful consideration of that data has confirmed the study's conclusions . . . data generated under the Consent Order are consistent with the 2013 EPA report."

"Industrial confinement dairies pollute, and poorly managed dairies pollute a lot. While progress is slow, the pollution is real and solutions are available," said Helen Reddout of Community Association for Restoration of the Environment.

"We applaud the EPA for standing strong on the science showing the impacts of dirty dairies on public health. Elected officials like Rep. Newhouse have a duty to serve the public. They must stop trying to protect polluting industries and instead protect the health and welfare of the communities they serve," said Amy van Saun, senior attorney at Center for Food Safety. "Laws like the Resource Conservation and

Recovery Act—that Rep. Newhouse attempted to gut in 2017—are there to protect clean water and provide citizens a way to enforce when regulators fail to do so. EPA oversight of industrial animal agriculture is crucial to ensuring that we can have both vibrant agricultural economies and healthy rural communities."

Background facts:

1. Nitrate levels in groundwater downgradient from the Lower Yakima Valley (LYV) dairy cluster are very high. Over 60% of wells are unsafe for drinking.
2. The highest nitrate level in Idaho's 2014 groundwater surveillance was 110 mg/L. The highest nitrate level in the monitoring wells down-gradient from the LYV dairy cluster was 234 mg/L (Idaho 2014 Nitrate Priority Area Delineation and Ranking Process)
3. Unlined lagoons on the dairy cluster have leaked large amounts of nitrate into the surrounding soils and to the aquifer.
4. Nitrates are leaching from poorly located dairy compost yards. Composting on top of well-drained soils makes no sense.
5. In 2012 the LYV Groundwater Management Area estimated that 12% to 20% of domestic wells had nitrate levels above the EPA drinking water safety standard of 10 mg/L. In 2019, when the LYV GWMA drilled 30 monitoring wells, 45% of those wells had nitrate levels > 10 mg/L.

---

**From:** Meadows, Carrie

**Sent:** Wednesday, August 14, 2019 2:56 PM

**To:** Kolb, John (JohnMark) <[kolb.john@epa.gov](mailto:kolb.john@epa.gov)>

**Subject:** RE: Email

Thank you for being responsive. The attached letter was hand delivered to the Secretary after a Western Caucus meeting. Then we sent this as follow-up. <https://newhouse.house.gov/media-center/press-releases/newhouse-requests-peer-review-yakima-valley-nitrate-report-epa-region-10>. Cursory peer reviews were performed on the report, but the complete review was missing whole sections. EPA Region 10 staff refuse to request that the U.S. Department of Agriculture (USDA)'s Agricultural Research Service complete a proper peer review, per many versions of the EPA's own peer review policies. EPA Region 10 staff also had the designation of the study changed from "influential" to "other," giving the EPA full discretion for the peer review process. This may also give you a lot more color about why this is still important. I thought these articles may be helpful. [https://www.yakimaherald.com/news/local/environmental-groups-sue-lower-valley-dairies-alleging-groundwater-contamination/article\\_7c90648e-b477-5bbc-b463-2869e16a05cd.html](https://www.yakimaherald.com/news/local/environmental-groups-sue-lower-valley-dairies-alleging-groundwater-contamination/article_7c90648e-b477-5bbc-b463-2869e16a05cd.html) and [https://www.yakimaherald.com/opinion/commentary-wrong-to-blame-dairies-for-nitrate-problem/article\\_f8fb5ad6-41da-11e9-b1a2-33e8ecce8d88.html](https://www.yakimaherald.com/opinion/commentary-wrong-to-blame-dairies-for-nitrate-problem/article_f8fb5ad6-41da-11e9-b1a2-33e8ecce8d88.html) I also believe a lot of Ag Groups have made a similar request for a peer review. <https://savefamilyfarming.org/easternwashingtonfamilyfarmers/2019/06/18/the-yakima-nitrate-story/>

There is a fundamental lack of trust with the regional office. At the end of the Obama Administration the EPA admitted in news reports that it should not have funded a campaign in Washington State known as [whatsupstream.com](http://whatsupstream.com), due to that campaign's brazen lobbying of state legislators in contravention of federal law. The [whatsupstream.com](http://whatsupstream.com) campaign, which was wholly funded by the EPA, used grant awards to fund a website, radio ads, and billboards depicting dead fish and polluted water, urging individuals to contact their state legislators and, "hold the agricultural industry to the same level of responsibility as other industries." A large, red button on the website labeled, "Take action! We've made it simple," allowed visitors to easily send an email to their state legislators advocating for 100-foot stream buffer zones and other policies. An EPA Inspector General's report from 2014 had warned that the EPA region responsible for

awarding the grant had insufficient protections in place to ensure awardees were not using funds for advocacy, propaganda, and/or lobbying efforts.

According to a December, 2015 report by the Government Accountability Office (GAO), the EPA violated federal lobbying and advocacy laws by funding social media campaigns supporting EPA's Waters of the United States (WOTUS) Rule. Dan was very vocal on this at the time. <https://newhouse.house.gov/media-center/press-releases/newhouse-statement-inspector-general-investigation-what-s-upstream>

Please let me know if I can get your more information.

Carrie

Carrie Meadows  
Chief of Staff  
Congressman Dan Newhouse  
202.225.5816

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**From:** Kolb, John (JohnMark) <[kolb.john@epa.gov](mailto:kolb.john@epa.gov)>  
**Sent:** Wednesday, August 14, 2019 12:29 PM  
**To:** Meadows, Carrie <[Carrie.Meadows@mail.house.gov](mailto:Carrie.Meadows@mail.house.gov)>  
**Subject:** Email

Hey Carrie,

Great connecting earlier. Here is my EPA email so you have it. Please send me as much info on this issue as you can.

Thanks!

Sincerely,

**JohnMark Kolb**  
*Congressional and Intergovernmental Relations*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: (202) 713-0825



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 19 2019

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. Larry Stap, President  
Mr. Gerald Baron, Executive Director  
Save Family Farming  
P.O. Box 326  
Everson, Washington 98247

Dear Mr. Stap and Mr. Baron:

I am writing in response to the recent letter that you sent to the U.S. Environmental Protection Agency Administrator. He requested that I respond on his behalf.

In your letter, you raise concerns with the EPA's 2013 report, "Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley, Washington" (Report) and the level of peer review it received. You request that the agency allow a second peer review by the Agricultural Research Service within the United States Department of Agriculture and "remove the Yakima Nitrate Report from further enforcement and litigation pending this review." After careful review, we find that the record does not support the concerns you raise about the level of peer review of the 2013 report. However, please be assured that the EPA is not using the 2013 report for further enforcement actions. You also allege that EPA staff members have violated federal law and committed fraud to "cover up the lack of peer review." As to the allegation of fraud, we are not aware of any facts that support that charge.<sup>1</sup>

As Regional Administrator Hladick noted in his letter to you on June 19, 2019, the agency followed its peer review policy when the Report was developed. The EPA conducted both internal and external peer reviews and accepted public comment on the draft Report. Consistent with the policy articulated in the 2006 Memorandum on Peer Review and Peer Involvement at EPA, the Report's external peer review included scientists from the United States Geological Survey (USGS) and the U.S. Department of Agriculture; scientists from EPA's Office of Research and Development and EPA Region 10 conducted the internal peer review. The EPA considered the peer reviewers' comments on the EPA 2012 Report and revised the report in response to the comments.

In 2013, the EPA issued an administrative order on consent under Safe Drinking Water Act Section 1431 to protect public health in Yakima Valley. In this case, the EPA's Section 1431 action was supported by a Valley Institute for Research and Education's (VIRE) 2002 study; USGS ground water sampling that was conducted in 1992 and 2004; Washington State Department of Ecology sampling conducted as part of the Agricultural Chemical Pilot Study conducted in 1988; and the Washington State

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<sup>1</sup> If you have any remaining concerns, any member of the public may contact EPA's Office of Inspector General with concerns of fraud, waste, or abuse. For more information: <https://www.epa.gov/office-inspector-general>.

Department of health's public water supply data from 1990-2008.<sup>2</sup> These studies reflected that approximately 12% of wells sampled in the Yakima basin exceeded the federal maximum contaminant level (MCL) for nitrate of 10 mg/L during the 1990-2008 period, and 21% of the wells sampled had levels between 5 and 9.9 mg/L. The VIRE study showed that up to 40% of low-income households had nitrate levels exceeding 5 mg/L. Additional sampling done by the dairies under the 2013 order has demonstrated that 61% of private drinking water wells within one mile downgradient of their facilities exceeded the MCL for nitrate.<sup>3</sup> The data also indicate that the source control actions taken by the dairies have begun to reduce the nitrate concentrations in the groundwater.

The 2013 study no longer represents the current status of nitrates in groundwater in the Yakima basin. Accordingly, the EPA would not rely on that report for any future enforcement actions.

I hope this information clarifies the record for you. If you have any additional questions please contact Mark Pollins, Director of the Water Enforcement Division, at 202-564-4001.

Sincerely,



Susan Parker Bodine

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<sup>2</sup> EPA January 21, 2010, memorandum "Findings in Support of Use of Safe Drinking Water Act Section 1431 to Address Contamination in Yakima Valley Groundwater, Washington."

<sup>3</sup> <https://www.epa.gov/sites/production/files/2017-12/documents/lower-yakima-valley-groundwater-fact-sheet-december-2014.pdf>.



Message

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**From:** Meadows, Carrie [Carrie.Meadows@mail.house.gov]  
**Sent:** 9/30/2019 3:22:30 PM  
**To:** Kolb, John (JohnMark) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0516791d05324430893ef917e0e707bd-Kolb, John]  
**CC:** O'Brien, Sean [SeanV.O'Brien@mail.house.gov]; Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Voyles, Travis [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4c2b6c0d5ff046e7809f8cab2913bc48-Voyles, Tra]  
**Subject:** Re: Email

Thank you!

Sent from my iPhone

On Sep 30, 2019, at 11:08 AM, Kolb, John (JohnMark) <[kolb.john@epa.gov](mailto:kolb.john@epa.gov)> wrote:

Carrie and Sean,

Happy Monday. Have not forgotten about you. Will touch base with you on this shortly.

Sincerely,

**JohnMark Kolb**

*Congressional Affairs*

U.S. Environmental Protection Agency

O: (202) 564-7793

C: Personal Privacy / Ex. 6

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There is a fundamental lack of trust with the regional office. At the end of the Obama Administration the EPA admitted in news reports that it should not have funded a campaign in Washington State known as [whatsupstream.com](http://whatsupstream.com), due to that campaign's brazen lobbying of state legislators in contravention of federal law. The [whatsupstream.com](http://whatsupstream.com) campaign, which was wholly funded by the EPA, used grant awards to fund a website, radio ads, and billboards depicting dead fish and polluted water, urging individuals to contact their state legislators and, "hold the agricultural industry to the same level of responsibility as other industries." A large, red button on the website labeled, "Take action! We've made it simple," allowed visitors to easily send an email to their state legislators advocating for 100-foot stream buffer zones and other policies. An EPA Inspector General's report from 2014 had warned that the EPA region responsible for awarding the grant had insufficient protections in place to ensure awardees were not using funds for advocacy, propaganda, and/or lobbying efforts.

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Please let me know if I can get your more information.

Carrie

Carrie Meadows  
Chief of Staff  
Congressman Dan Newhouse  
202.225.5816

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Sincerely,

**JohnMark Kolb**  
*Congressional and Intergovernmental Relations*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: Personal Privacy / Ex. 6

**From:** Meadows, Carrie [Carrie.Meadows@mail.house.gov]  
**Sent:** 9/9/2019 7:40:03 PM  
**To:** Kolb, John (JohnMark) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0516791d05324430893ef917e0e707bd-Kolb, John]  
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By Jacqui Fatka – August 30, 2019

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The American Dairy Coalition (ADC) sent a letter to Wheeler requesting that he submit a 2013 EPA nitrate report to attain the science review it never received, claiming that it was "flawed and damaging." ADC is concerned for the farmers that have already been severely affected by this so-called scientific research study report and believes EPA must stop a dangerous precedence from being set that could affect other farmers throughout the U.S.

Wheeler was also urged to remove the study from further enforcement action and litigation pending the review.

This follows a similar request submitted by Rep. Dan Newhouse (R., Wash.) on June 26. The Washington State Dairy Federation, Idaho Dairyman's Assn. and Oregon Dairy Farmers Assn. met with Region 10 EPA staff in February, joining with Save Family Farming in its call for EPA to allow the missing peer review and to retract the study pending that review.

"It is vital that the Administration demonstrate their commitment to maintaining the integrity and transparency of science. The current status of this report sets a very unfortunate precedence for the value of science-based actions and represents a profound opportunity to preserve fundamental principles and standards," ADC chief executive officer Laurie Fischer said. "Support for this Administration has been strong from the farm community because of positive changes in the EPA. However, the lack of action in carrying out this scientific peer review may cause that support to wane."

The letter submitted to Wheeler states, "This report, proven false by 15 national agricultural science experts, was developed without the peer review required on 'influential science information,' as the study was categorized. When approached about the error, staff attempted to conceal the failing by falsely claiming the report was not categorized as 'influential' but 'other,' allowing for full discretion in peer reviews."

The EPA "Yakima Nitrate Report" began in 2010 and was published in 2012 and 2013. Despite some of nation's top scientists and agronomists finding the study to be deeply flawed and other government agencies cautioning its use, EPA Region 10 staff still used the study, ADC noted.

This led to highly disciplinary enforcement and threats of federal litigation, which has devastated four large dairy farms. Specifically, these four dairies were pressured into signing a very punitive administrative order on consent, resulting in the loss of one dairy and requiring the remaining to spend upwards of \$15 million to comply. Further, the report has been used by an Oregon environmental attorney to force extremely costly settlements with a number of Washington dairy farms, resulting in the loss of farms and creating extreme distress within the entire Washington dairy community.

Larry Stap, a small dairy farmer in northwest Washington and president of Save Family Farming, noted, "This false or falsified study has cost me and a few-hundred other dairy farmers like me endless sleepless nights. The constant fear of EPA using false accusations to take action against me like they did the others is one thing, but the lawyer using this study to sue farmers has already cost me tens of thousands of dollars I can't afford."

Stap pointed out that a number of farms in his area and around the state are being sold or are going out of business in part because of the concerns related to this study and the actions of the litigation industry.

Deepening the concern, the same Region 10 leadership supported the use of \$550,000 of taxpayer money on public relations and lobbying campaigns against farmers. With this finding in 2016, more than one-third of the members of Congress were compelled to write the EPA director complaining of this action, which prompted an Office of Inspector General investigation that found that the campaign did involve state lobbying.

Also, a former senior agronomist with the U.S. Department of Agriculture provided a detailed analysis of the study and found it to be fraudulent. The documentation may be viewed at <https://savefamilyfarming.org/blog/category/clean-water/clean-groundwater/epa-nitrate-study/>. This has been further supported by the conclusions of 15 prominent agricultural scientists who also deemed the study fraudulent.

## **EPA STANDS BEHIND CONCLUSION THAT INDUSTRIAL DAIRIES CONTAMINATE LOWER YAKIMA VALLEY DRINKING WATER**

September 3, 2019

Yakima, WA.—Despite continued efforts to undermine sound science and community health, Congressman Dan Newhouse (R-WA) again failed to cover up the truth about industrial dairies in the Lower Yakima Valley and the facilities' impacts on groundwater.

In 2017, Congressman Newhouse unsuccessfully pushed legislation aimed at gutting the federal law that protects groundwater from contamination and provides citizens with enforcement power to protect their own communities. In June 2019, at the behest of Washington dairy industry lobbyists, he asked the U.S. Environmental Protection Agency (EPA) to conduct additional peer review of its 2013 study. That study found that dairies in the Lower Yakima Valley (LYV) contribute significantly to the dangerous levels of nitrates in groundwater and drinking water wells. EPA refused this invitation to revise history, instead stating that the data collected since 2013 confirms the conclusions of the study: the high concentration of dairies, which store waste in leaking lagoons and over-apply manure to crop fields, are the likely source of dangerously high nitrate levels in drinking water wells.

"Congressman Newhouse again showed that he cares more about industry lobbyists than fairly representing his own constituents and protecting their health," said Jean Mendoza, executive director of Friends of Toppenish Creek.

"Because clean drinking water is so very important to all who live in the Lower Yakima Valley and because Yakima County dairies are the largest polluters of groundwater in the Valley, we sent two letters of concern (#1, #2) to EPA Administrator Andrew Wheeler. The EPA responded with complete support for the Yakima study."

In its response to Friends, EPA noted that the 2013 study led to a Consent Order with ongoing research on a cluster of Yakima Valley dairies, stating "The EPA has received a lot of data over the past seven years from the Dairies, and careful consideration of that data has confirmed the study's conclusions . . . data generated under the Consent Order are consistent with the 2013 EPA report."

"Industrial confinement dairies pollute, and poorly managed dairies pollute a lot. While progress is slow, the pollution is real and solutions are available," said Helen Reddout of Community Association for Restoration of the Environment.

"We applaud the EPA for standing strong on the science showing the impacts of dirty dairies on public health. Elected officials like Rep. Newhouse have a duty to serve the public. They must stop trying to protect polluting industries and instead protect the health and welfare of the communities they serve," said Amy van Saun, senior attorney at Center for Food Safety. "Laws like the Resource Conservation and Recovery Act—that Rep. Newhouse attempted to gut in 2017—are there to protect clean water and provide citizens a way to enforce when regulators fail to do so. EPA oversight of industrial animal agriculture is crucial to ensuring that we can have both vibrant agricultural economies and healthy rural communities."

Background facts:

1. Nitrate levels in groundwater downgradient from the Lower Yakima Valley (LYV) dairy cluster are very high. Over 60% of wells are unsafe for drinking.
2. The highest nitrate level in Idaho's 2014 groundwater surveillance was 110 mg/L. The highest nitrate level in the monitoring wells down-gradient from the LYV dairy cluster was 234 mg/L (Idaho 2014 Nitrate Priority Area Delineation and Ranking Process)
3. Unlined lagoons on the dairy cluster have leaked large amounts of nitrate into the surrounding soils and to the aquifer.
4. Nitrates are leaching from poorly located dairy compost yards. Composting on top of well-drained soils makes no sense.
5. In 2012 the LYV Groundwater Management Area estimated that 12% to 20% of domestic wells had nitrate levels above the EPA drinking water safety standard of 10 mg/L. In 2019, when the LYV GWMA drilled 30 monitoring wells, 45% of those wells had nitrate levels > 10 mg/L.

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**From:** Meadows, Carrie

**Sent:** Wednesday, August 14, 2019 2:56 PM

**To:** Kolb, John (JohnMark) <kolb.john@epa.gov>

**Subject:** RE: Email

Thank you for being responsive. The attached letter was hand delivered to the Secretary after a Western Caucus meeting. Then we sent this as follow-up. <https://newhouse.house.gov/media-center/press-releases/newhouse-requests-peer-review-yakima-valley-nitrate-report-epa-region-10>. cursory peer reviews were performed on the report, but the complete review was missing whole sections. EPA Region 10 staff refuse to request that the U.S. Department of Agriculture (USDA)'s Agricultural Research Service complete a proper peer review, per many versions of the EPA's own peer review policies. EPA Region 10 staff also had the designation of the study changed from "influential" to "other," giving the EPA full discretion for the peer review process. This may also give you a lot more color about why this is still important. I thought these articles may be helpful. [https://www.yakimaherald.com/news/local/environmental-groups-sue-lower-valley-dairies-alleging-groundwater-contamination/article\\_7c90648e-b477-5bbc-b463-2869e16a05cd.html](https://www.yakimaherald.com/news/local/environmental-groups-sue-lower-valley-dairies-alleging-groundwater-contamination/article_7c90648e-b477-5bbc-b463-2869e16a05cd.html) and [https://www.yakimaherald.com/opinion/commentary-wrong-to-blame-dairies-for-nitrate-problem/article\\_f8fb5ad6-41da-11e9-b1a2-33e8ecce8d88.html](https://www.yakimaherald.com/opinion/commentary-wrong-to-blame-dairies-for-nitrate-problem/article_f8fb5ad6-41da-11e9-b1a2-33e8ecce8d88.html) I also believe a lot of Ag Groups have made a similar request for a peer review. <https://savefamilyfarming.org/easternwashingtonfamilyfarmers/2019/06/18/the-yakima-nitrate-story/>

There is a fundamental lack of trust with the regional office. At the end of the Obama Administration the EPA admitted in news reports that it should not have funded a campaign in Washington State known as whatsupstream.com, due to that campaign's brazen lobbying of state legislators in contravention of federal law. The whatsupstream.com campaign, which was wholly funded by the EPA, used grant awards to fund a website, radio ads, and billboards depicting dead fish and polluted water, urging individuals to contact their state legislators and, "hold the agricultural industry to the same level of responsibility as other industries." A large, red button on the website labeled, "Take action! We've made it simple," allowed visitors to easily send an email to their state legislators advocating for 100-foot stream buffer zones and other policies. An EPA Inspector General's report from 2014 had warned that the EPA region responsible for awarding the grant had insufficient protections in place to ensure awardees were not using funds for advocacy, propaganda, and/or lobbying efforts.

According to a December, 2015 report by the Government Accountability Office (GAO), the EPA violated federal lobbying and advocacy laws by funding social media campaigns supporting EPA's Waters of the United States (WOTUS) Rule. Dan was very vocal on this at the time. <https://newhouse.house.gov/media-center/press-releases/newhouse-statement-inspector-general-investigation-what-s-upstream>

Please let me know if I can get your more information.



Carrie

Carrie Meadows  
Chief of Staff  
Congressman Dan Newhouse  
202.225.5816

---

**From:** Kolb, John (JohnMark) <[kolb.john@epa.gov](mailto:kolb.john@epa.gov)>  
**Sent:** Wednesday, August 14, 2019 12:29 PM  
**To:** Meadows, Carrie <[Carrie.Meadows@mail.house.gov](mailto:Carrie.Meadows@mail.house.gov)>  
**Subject:** Email

Hey Carrie,

Great connecting earlier. Here is my EPA email so you have it. Please send me as much info on this issue as you can.

Thanks!

Sincerely,

**JohnMark Kolb**  
*Congressional and Intergovernmental Relations*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: Personal Privacy / Ex. 6

Message

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**From:** Kolb, John (JohnMark) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0516791D05324430893EF917E0E707BD-KOLB, JOHN]  
**Sent:** 10/7/2019 6:40:38 PM  
**To:** Meadows, Carrie [Carrie.Meadows@mail.house.gov]  
**CC:** O'Brien, Sean [SeanV.O'Brien@mail.house.gov]; Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Voyles, Travis [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4c2b6c0d5ff046e7809f8cab2913bc48-Voyles, Tra]  
**Subject:** RE: Email  
**Attachments:** Signed Letter - Yakima Dairies - Save Family Farming dtd 9.19.19.pdf

Carrie and Sean,

I wanted to make sure you saw this letter that went out from EPA, responsive to your bosses call to "suspend the study from enforcement action and litigation" (<https://newhouse.house.gov/media-center/press-releases/newhouse-requests-peer-review-yakima-valley-nitrate-report-epa-region-10>).

However, more going on her than that. Is there a good time this week to discuss?

Sincerely,

**JohnMark Kolb**  
*Congressional Affairs*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: Personal Privacy / Ex. 6

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**From:** Meadows, Carrie <Carrie.Meadows@mail.house.gov>  
**Sent:** Monday, September 30, 2019 11:23 AM  
**To:** Kolb, John (JohnMark) <kolb.john@epa.gov>  
**Cc:** O'Brien, Sean <SeanV.O'Brien@mail.house.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>  
**Subject:** Re: Email

Thank you!

Sent from my iPhone

On Sep 30, 2019, at 11:08 AM, Kolb, John (JohnMark) <kolb.john@epa.gov> wrote:

Carrie and Sean,

Happy Monday. Have not forgotten about you. Will touch base with you on this shortly.

Sincerely,

**JohnMark Kolb**  
*Congressional Affairs*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: Personal Privacy / Ex. 6

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**From:** Meadows, Carrie <Carrie.Meadows@mail.house.gov>  
**Sent:** Monday, September 9, 2019 3:40 PM  
**To:** Kolb, John (JohnMark) <kolb.john@epa.gov>  
**Subject:** RE: Email

John Mark- Hope your August was good. Just wanted to follow-up on Congressman Newhouse's request to meet with the Administrator. I also wanted to flag the below news story and release on this issue. My boss is very motivated to make this happen.

Thanks!  
Carrie

### Feedstuffs

## **Nitrate study putting dairy farmers in litigation crosshairs**

By Jacqui Fatka – August 30, 2019

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**Sent:** Wednesday, August 14, 2019 2:56 PM

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Please let me know if I can get your more information.

Carrie

Carrie Meadows  
Chief of Staff  
Congressman Dan Newhouse  
202.225.5816

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Thanks!

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**JohnMark Kolb**  
*Congressional and Intergovernmental Relations*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: Personal Privacy / Ex. 6



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 19 2019

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. Larry Stap, President  
Mr. Gerald Baron, Executive Director  
Save Family Farming  
P.O. Box 326  
Everson, Washington 98247

Dear Mr. Stap and Mr. Baron:

I am writing in response to the recent letter that you sent to the U.S. Environmental Protection Agency Administrator. He requested that I respond on his behalf.

In your letter, you raise concerns with the EPA's 2013 report, "Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley, Washington" (Report) and the level of peer review it received. You request that the agency allow a second peer review by the Agricultural Research Service within the United States Department of Agriculture and "remove the Yakima Nitrate Report from further enforcement and litigation pending this review." After careful review, we find that the record does not support the concerns you raise about the level of peer review of the 2013 report. However, please be assured that the EPA is not using the 2013 report for further enforcement actions. You also allege that EPA staff members have violated federal law and committed fraud to "cover up the lack of peer review." As to the allegation of fraud, we are not aware of any facts that support that charge.<sup>1</sup>

As Regional Administrator Hladick noted in his letter to you on June 19, 2019, the agency followed its peer review policy when the Report was developed. The EPA conducted both internal and external peer reviews and accepted public comment on the draft Report. Consistent with the policy articulated in the 2006 Memorandum on Peer Review and Peer Involvement at EPA, the Report's external peer review included scientists from the United States Geological Survey (USGS) and the U.S. Department of Agriculture; scientists from EPA's Office of Research and Development and EPA Region 10 conducted the internal peer review. The EPA considered the peer reviewers' comments on the EPA 2012 Report and revised the report in response to the comments.

In 2013, the EPA issued an administrative order on consent under Safe Drinking Water Act Section 1431 to protect public health in Yakima Valley. In this case, the EPA's Section 1431 action was supported by a Valley Institute for Research and Education's (VIRE) 2002 study; USGS ground water sampling that was conducted in 1992 and 2004; Washington State Department of Ecology sampling conducted as part of the Agricultural Chemical Pilot Study conducted in 1988; and the Washington State

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<sup>1</sup> If you have any remaining concerns, any member of the public may contact EPA's Office of Inspector General with concerns of fraud, waste, or abuse. For more information: <https://www.epa.gov/office-inspector-general>.

Department of health's public water supply data from 1990-2008.<sup>2</sup> These studies reflected that approximately 12% of wells sampled in the Yakima basin exceeded the federal maximum contaminant level (MCL) for nitrate of 10 mg/L during the 1990-2008 period, and 21% of the wells sampled had levels between 5 and 9.9 mg/L. The VIRE study showed that up to 40% of low-income households had nitrate levels exceeding 5 mg/L. Additional sampling done by the dairies under the 2013 order has demonstrated that 61% of private drinking water wells within one mile downgradient of their facilities exceeded the MCL for nitrate.<sup>3</sup> The data also indicate that the source control actions taken by the dairies have begun to reduce the nitrate concentrations in the groundwater.

The 2013 study no longer represents the current status of nitrates in groundwater in the Yakima basin. Accordingly, the EPA would not rely on that report for any future enforcement actions.

I hope this information clarifies the record for you. If you have any additional questions please contact Mark Pollins, Director of the Water Enforcement Division, at 202-564-4001.

Sincerely,



Susan Parker Bodine

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<sup>2</sup> EPA January 21, 2010, memorandum "Findings in Support of Use of Safe Drinking Water Act Section 1431 to Address Contamination in Yakima Valley Groundwater, Washington."

<sup>3</sup> <https://www.epa.gov/sites/production/files/2017-12/documents/lower-yakima-valley-groundwater-fact-sheet-december-2014.pdf>.



Message

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**From:** Kolb, John (JohnMark) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0516791D05324430893EF917E0E707BD-KOLB, JOHN]  
**Sent:** 9/30/2019 3:07:40 PM  
**To:** Meadows, Carrie [Carrie.Meadows@mail.house.gov]; seanv.obrien@mail.house.gov  
**CC:** Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Voyles, Travis [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4c2b6c0d5ff046e7809f8cab2913bc48-Voyles, Tra]  
**Subject:** RE: Email

Carrie and Sean,

Happy Monday. Have not forgotten about you. Will touch base with you on this shortly.

Sincerely,

**JohnMark Kolb**  
*Congressional Affairs*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: Personal Privacy / Ex. 6

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**From:** Meadows, Carrie <Carrie.Meadows@mail.house.gov>  
**Sent:** Monday, September 9, 2019 3:40 PM  
**To:** Kolb, John (JohnMark) <kolb.john@epa.gov>  
**Subject:** RE: Email

John Mark- Hope your August was good. Just wanted to follow-up on Congressman Newhouse's request to meet with the Administrator. I also wanted to flag the below news story and release on this issue. My boss is very motivated to make this happen.

Thanks!  
Carrie

Feedstuffs

## Nitrate study putting dairy farmers in litigation crosshairs

By Jacqui Fatka – August 30, 2019

Dairy farmers are appealing to Environmental Protection Agency Administrator Andrew Wheeler to take long-delayed action on conducting a real peer review of the 2012-13 EPA "Yakima Nitrate Report." After months of effort with new EPA Region 10 administrator Christopher Hladick, farmers have turned to the national leader of EPA to put the agency's commitment to transparency in science into action.

The American Dairy Coalition (ADC) sent a letter to Wheeler requesting that he submit a 2013 EPA nitrate report to attain the science review it never received, claiming that it was "flawed and damaging." ADC is concerned for the farmers that have already been severely affected by this so-called scientific research study report and believes EPA must stop a dangerous precedence from being set that could affect other farmers throughout the U.S.

Wheeler was also urged to remove the study from further enforcement action and litigation pending the review. This follows a similar request submitted by Rep. Dan Newhouse (R., Wash.) on June 26. The Washington State Dairy Federation, Idaho Dairyman's Assn. and Oregon Dairy Farmers Assn. met with Region 10 EPA staff in

February, joining with Save Family Farming in its call for EPA to allow the missing peer review and to retract the study pending that review.

“It is vital that the Administration demonstrate their commitment to maintaining the integrity and transparency of science. The current status of this report sets a very unfortunate precedence for the value of science-based actions and represents a profound opportunity to preserve fundamental principles and standards,” ADC chief executive officer Laurie Fischer said. “Support for this Administration has been strong from the farm community because of positive changes in the EPA. However, the lack of action in carrying out this scientific peer review may cause that support to wane.”

The letter submitted to Wheeler states, “This report, proven false by 15 national agricultural science experts, was developed without the peer review required on ‘influential science information,’ as the study was categorized. When approached about the error, staff attempted to conceal the failing by falsely claiming the report was not categorized as ‘influential’ but ‘other,’ allowing for full discretion in peer reviews.”

The EPA “Yakima Nitrate Report” began in 2010 and was published in 2012 and 2013. Despite some of nation’s top scientists and agronomists finding the study to be deeply flawed and other government agencies cautioning its use, EPA Region 10 staff still used the study, ADC noted.

This led to highly disciplinary enforcement and threats of federal litigation, which has devastated four large dairy farms. Specifically, these four dairies were pressured into signing a very punitive administrative order on consent, resulting in the loss of one dairy and requiring the remaining to spend upwards of \$15 million to comply. Further, the report has been used by an Oregon environmental attorney to force extremely costly settlements with a number of Washington dairy farms, resulting in the loss of farms and creating extreme distress within the entire Washington dairy community.

Larry Stap, a small dairy farmer in northwest Washington and president of Save Family Farming, noted, “This false or falsified study has cost me and a few-hundred other dairy farmers like me endless sleepless nights. The constant fear of EPA using false accusations to take action against me like they did the others is one thing, but the lawyer using this study to sue farmers has already cost me tens of thousands of dollars I can’t afford.”

Stap pointed out that a number of farms in his area and around the state are being sold or are going out of business in part because of the concerns related to this study and the actions of the litigation industry.

Deepening the concern, the same Region 10 leadership supported the use of \$550,000 of taxpayer money on public relations and lobbying campaigns against farmers. With this finding in 2016, more than one-third of the members of Congress were compelled to write the EPA director complaining of this action, which prompted an Office of Inspector General investigation that found that the campaign did involve state lobbying.

Also, a former senior agronomist with the U.S. Department of Agriculture provided a detailed analyst of the study and found it to be fraudulent. The documentation may be viewed at

<https://savefamilyfarming.org/blog/category/clean-water/clean-groundwater/epa-nitrate-study/>. This has been further supported by the conclusions of 15 prominent agricultural scientists who also deemed the study fraudulent.

## **EPA STANDS BEHIND CONCLUSION THAT INDUSTRIAL DAIRIES CONTAMINATE LOWER YAKIMA VALLEY DRINKING WATER**

September 3, 2019

Yakima, WA.—Despite continued efforts to undermine sound science and community health, Congressman Dan Newhouse (R-WA) again failed to cover up the truth about industrial dairies in the Lower Yakima Valley and the facilities’ impacts on groundwater.

In 2017, Congressman Newhouse unsuccessfully pushed legislation aimed at gutting the federal law that protects groundwater from contamination and provides citizens with enforcement power to protect their own communities. In June 2019, at the behest of Washington dairy industry lobbyists, he asked the U.S. Environmental Protection Agency (EPA) to conduct additional peer review of its 2013 study. That study found that dairies in the Lower Yakima Valley (LYV) contribute significantly to the dangerous levels of nitrates in groundwater and drinking water wells. EPA refused this

invitation to revise history, instead stating that the data collected since 2013 confirms the conclusions of the study: the high concentration of dairies, which store waste in leaking lagoons and over-apply manure to crop fields, are the likely source of dangerously high nitrate levels in drinking water wells.

"Congressman Newhouse again showed that he cares more about industry lobbyists than fairly representing his own constituents and protecting their health," said Jean Mendoza, executive director of Friends of Toppenish Creek.

"Because clean drinking water is so very important to all who live in the Lower Yakima Valley and because Yakima County dairies are the largest polluters of groundwater in the Valley, we sent two letters of concern (#1, #2) to EPA Administrator Andrew Wheeler. The EPA responded with complete support for the Yakima study."

In its response to Friends, EPA noted that the 2013 study led to a Consent Order with ongoing research on a cluster of Yakima Valley dairies, stating "The EPA has received a lot of data over the past seven years from the Dairies, and careful consideration of that data has confirmed the study's conclusions . . . data generated under the Consent Order are consistent with the 2013 EPA report."

"Industrial confinement dairies pollute, and poorly managed dairies pollute a lot. While progress is slow, the pollution is real and solutions are available," said Helen Reddout of Community Association for Restoration of the Environment.

"We applaud the EPA for standing strong on the science showing the impacts of dirty dairies on public health. Elected officials like Rep. Newhouse have a duty to serve the public. They must stop trying to protect polluting industries and instead protect the health and welfare of the communities they serve," said Amy van Saun, senior attorney at Center for Food Safety. "Laws like the Resource Conservation and Recovery Act—that Rep. Newhouse attempted to gut in 2017—are there to protect clean water and provide citizens a way to enforce when regulators fail to do so. EPA oversight of industrial animal agriculture is crucial to ensuring that we can have both vibrant agricultural economies and healthy rural communities."

Background facts:

1. Nitrate levels in groundwater downgradient from the Lower Yakima Valley (LYV) dairy cluster are very high. Over 60% of wells are unsafe for drinking.
2. The highest nitrate level in Idaho's 2014 groundwater surveillance was 110 mg/L. The highest nitrate level in the monitoring wells down-gradient from the LYV dairy cluster was 234 mg/L (Idaho 2014 Nitrate Priority Area Delineation and Ranking Process)
3. Unlined lagoons on the dairy cluster have leaked large amounts of nitrate into the surrounding soils and to the aquifer.
4. Nitrates are leaching from poorly located dairy compost yards. Composting on top of well-drained soils makes no sense.
5. In 2012 the LYV Groundwater Management Area estimated that 12% to 20% of domestic wells had nitrate levels above the EPA drinking water safety standard of 10 mg/L. In 2019, when the LYV GWMA drilled 30 monitoring wells, 45% of those wells had nitrate levels > 10 mg/L.

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**From:** Meadows, Carrie

**Sent:** Wednesday, August 14, 2019 2:56 PM

**To:** Kolb, John (JohnMark) <[kolb.john@epa.gov](mailto:kolb.john@epa.gov)>

**Subject:** RE: Email

Thank you for being responsive. The attached letter was hand delivered to the Secretary after a Western Caucus meeting. Then we sent this as follow-up. <https://newhouse.house.gov/media-center/press-releases/newhouse-requests-peer-review-yakima-valley-nitrate-report-epa-region-10>. cursory peer reviews were performed on the report, but the complete review was missing whole sections. EPA Region 10 staff refuse to request that the U.S. Department of Agriculture (USDA)'s Agricultural Research Service complete a proper peer review, per many versions of the EPA's own peer review policies. EPA Region 10 staff also had the designation of the study changed from "influential" to "other," giving the EPA full discretion for the peer review process. This may also give you a lot more color about why this is still important. I thought these articles may be helpful. [https://www.yakimaherald.com/news/local/environmental-groups-sue-lower-valley-dairies-alleging-groundwater-contamination/article\\_7c90648e-b477-5bbc-b463-2869e16a05cd.html](https://www.yakimaherald.com/news/local/environmental-groups-sue-lower-valley-dairies-alleging-groundwater-contamination/article_7c90648e-b477-5bbc-b463-2869e16a05cd.html) and [https://www.yakimaherald.com/opinion/commentary-wrong-to-blame-dairies-for-nitrate-problem/article\\_f8fb5ad6-41da-11e9-b1a2-33e8ecce8d88.html](https://www.yakimaherald.com/opinion/commentary-wrong-to-blame-dairies-for-nitrate-problem/article_f8fb5ad6-41da-11e9-b1a2-33e8ecce8d88.html) I also believe a lot of Ag Groups have made a similar

request for a peer review. <https://savefamilyfarming.org/easternwashingtonfamilyfarmers/2019/06/18/the-yakima-nitrate-story/>

There is a fundamental lack of trust with the regional office. At the end of the Obama Administration the EPA admitted in news reports that it should not have funded a campaign in Washington State known as whatsupstream.com, due to that campaign's brazen lobbying of state legislators in contravention of federal law. The whatsupstream.com campaign, which was wholly funded by the EPA, used grant awards to fund a website, radio ads, and billboards depicting dead fish and polluted water, urging individuals to contact their state legislators and, "hold the agricultural industry to the same level of responsibility as other industries." A large, red button on the website labeled, "Take action! We've made it simple," allowed visitors to easily send an email to their state legislators advocating for 100-foot stream buffer zones and other policies. An EPA Inspector General's report from 2014 had warned that the EPA region responsible for awarding the grant had insufficient protections in place to ensure awardees were not using funds for advocacy, propaganda, and/or lobbying efforts.

According to a December, 2015 report by the Government Accountability Office (GAO), the EPA violated federal lobbying and advocacy laws by funding social media campaigns supporting EPA's Waters of the United States (WOTUS) Rule. Dan was very vocal on this at the time. <https://newhouse.house.gov/media-center/press-releases/newhouse-statement-inspector-general-investigation-what-s-upstream>

Please let me know if I can get your more information.

Carrie

Carrie Meadows  
Chief of Staff  
Congressman Dan Newhouse  
202.225.5816

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**From:** Kolb, John (JohnMark) <[kolb.john@epa.gov](mailto:kolb.john@epa.gov)>  
**Sent:** Wednesday, August 14, 2019 12:29 PM  
**To:** Meadows, Carrie <[Carrie.Meadows@mail.house.gov](mailto:Carrie.Meadows@mail.house.gov)>  
**Subject:** Email

Hey Carrie,

Great connecting earlier. Here is my EPA email so you have it. Please send me as much info on this issue as you can.

Thanks!

Sincerely,

**JohnMark Kolb**  
*Congressional and Intergovernmental Relations*  
U.S. Environmental Protection Agency  
O: (202) 564-7793  
C: Personal Privacy / Ex. 6